

Recommendation for applicability of the new Form 10B

- 1. Given the onerous requirements of reporting, small trusts will not be in a position to bear the high fees that would be charged for such reporting. The amended Form 10B should therefore be made applicable only to large public charitable trusts, which have gross income before application u/s. 11 in excess of Rs. 2 crores. Further, the existing Form 10B can continue to apply to smaller public charitable trusts having gross income below Rs. 2 crores.**
- 2. Given the fact that the audit of quite a few trusts for financial year 2018-19 has already been completed, the amended Form 10B should be made applicable from AY 2020-21 onwards.**
- 3. The Annexure to the amended Form 10B being a transactional based reporting, the same should be required to be counter signed by the Trustee/Director/Manager.**

Specific recommendation/suggestions to the new Form 10B

Sr. No. in Form 10B	Clause / Comment	Recommendation
1, 2 & 3	<p>Clauses 1,2 & 3 are similar to Form 3CB (as suitably modified). However, it may be noted that the auditor needs to certify whether the statement of affairs / balance sheet and the income and expenditure / profit and loss are in agreement with the books of account maintained at the head office and branches.</p> <p>Further he has to offer his observations/ comments/ discrepancies/ inconsistencies of both head office as well as branch</p>	<p>There may be circumstances wherein the branch auditor may be different from the auditor of the head office. It is therefore recommended that the format to be applied should be similar to Form 3CA as suitably modified for applicability to a charitable trust. This will take care of the audit conducted by a branch auditor other than the auditor of the head office.</p>

Specific recommendations/suggestions to the new Form 10B

Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
D	1b	In case of "advancement of any other objects of general public utility", please provide following:	Clause 1b needs to be deleted	This clause is already covered in ITR7 under "Other Details" Item A. Further, the reporting required as to whether an activity is in the nature of trade, commerce or business is subjective, with conflicting judicial views on the issue. Hence it cannot be certified by the auditor as "true and correct"
E	i	Whether the trust / institution has adopted or undertaken modification of its objects <u>which do not conform to the conditions of registration</u>	The words "which do not conform to the conditions of registration" needs to be deleted. The reporting needs to be restricted to the year of reporting.	It is the prerogative of the tax department to determine whether the modifications conform to the conditions of registration or not. Auditor should only be asked to report whether the trust / institution has adopted or undertaken modification of its object or not during the year, since the audit is for the year.
Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
F	2	Details of voluntary contributions to the trust or institution during the previous year including voluntary contribution under section 12:	This clause needs to be deleted	The reporting for this is already covered in ITR 7 Schedule VC. Further it is difficult for an auditor to certify and report donations in kind and therefore we propose that this clause may be deleted.
F	2b(i)	Whether the trust or institution is registered under the FCRA, 2010	Should be restricted to certifying the purpose of foreign contribution received.	FCRA, 2010 already provides for stringent penalty for any violations of the Act. Further, all the details

				are already submitted in FC-4 Form which can be easily retrieved by the department.
F	2c	Whether the trust or institution is registered under section 80G	This entire clause needs to be modified, only to report cash donations exceeding Rs. 2,000/-.	It is humbly submitted that reporting under this clause is practically impossible for the auditor to certify as true and correct. We suggest that such receipt of donations in cash exceeding Rs 2,000 may be made mandatory for the trustees to file under Specific Financials Transaction (SFT) report
Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
G	4	Amount of income, in addition to the amount referred to in item 3 and 4 of F. above, accumulated or set apart for specified purposes under section 11 (2), if any	Item G1 to be inserted	Clause G 1 should be added after item 3 & 4 of F, as that would be the balance amount available for accumulation u/s 11(2).
G	5	Whether the amount of income mentioned in item 4 above has been invested or deposited in the manner laid down in section 11(2)(b)?	Option to tick "Not Applicable" should also be available	There may be cases where there may not be any income accumulated or set apart for specified purposes u/s. 11(2) and therefore an option of Not Applicable should also be made available.
G	7(i)	Whether any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) of section 11 could not be applied for the purpose for which it was accumulated or set apart?	Option to tick "Not Applicable" should also be available	There will be cases where clause (b) of sub-section (2) of section 11 may not be applicable

Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
I	(i)	Voluntary contributions....	The words “of investments” may be inserted after Voluntary contribution.	Voluntary Contributions in kind which are in the nature of Investments received are required to be converted into investments in the specified modes u/s.11(5) within the time provided and therefore the words “of investments” needs to be inserted
J	1	In view of provisions under section 13(1)(a), please specify whether there is any part of income of a trust for private religious purposes which does not enure for the benefit of public?	This entire clause needs to be deleted	The very fact that the trust is registered under section 12A / 12AA implies that the trust is created for the public at large.
J	2(i)	In view of provisions under section 13(1)(b), please specify whether the trust or institution is created or established for the benefit of any particular religious community or caste after the commencement of the Act.	This clause needs to be deleted	In view of above discussion, this clause needs to be deleted.
Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
K	1	1(i) Details of persons referred to in sub section (3) of section 13 (specified person) anytime during the previous year:	This entire clause needs to be deleted	The reporting under each clause is already captured from clauses M to T and hence this clause needs to be deleted.

K		2(i) Particulars of persons who were beneficial owner of the trust or institution, directly or indirectly, at any time during the previous year.	This clause needs to be deleted	In case of a trust / institution the beneficial owners are “general public at large” and therefore reporting details under this clause is impracticable.
M to T	various	Deemed Use/ Application u/s.13(2)(a) to (h)	The words “adequate” and “reasonable” wherever appearing needs to be deleted	It is not possible for the auditor to comment on the adequacy or reasonableness of any payment. The auditor can only report facts of payments made/expenses incurred as done while reporting under section 40(a)(2) of the Act in case of tax audit under section 44AB.

Sr. No. in Annexure	Clause	Particulars	Suggestion	Reasons / Recommendations
X	1, 2 & 3	Details of tax deducted at source or collected at source, etc.	This clause needs to be deleted. Only details of TAN numbers may be required to be reported.	All these details are readily available on TRACES portal, so there is no point in duplicating the efforts.

Thanking you,

Your sincerely,

For Bombay Chartered Accountants Society



CA Sunil Gabhawalla
President



CA Chetan Shah
Chairman, Corporate and Allied Laws Committee